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Paper No.

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MAILED

MAR 11 2010

OFFICE OF PETITIONS

In re Application of :
Scheinman et al. : DECISION ON LETTER
Application No. 10/588,138 : REGARDING
Filed: February 12, 2007 : PATENT TERM ADJUSTMENT
Atty Docket No. :
25960-013NATL :
:

This letter is in response to the letter entitled "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed on November 11, 2009. The letter is treated as a request, pursuant to applicant's duty of good faith and candor to the Office, that the initial determination of patent term adjustment under 35 USC 154(b) be reviewed for accuracy.

The request for review of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment at the time of the mailing of the Notice of Allowance is 0 days (0 days of Office delay and 123 days of applicant delay). A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 12, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 USC 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 0 days.

Applicants state than an additional reduction of 37 days, pursuant to 37 CFR 1.704(b) is warranted for the filing of a response on July 7, 2007 to the Notification of Missing Requirements Under 35 USC 371 mailed on February 26, 2007. The reply was filed three (3) months and 37 days after the mailing of the Notification mailed on February 26, 2007.

37 CFR 1.704(b) states that:

With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

A Notification of Missing Requirements Under 35 U.S.C. 371 was mailed on February 26, 2007, requiring an oath or declaration and a surcharge. On July 2, 2007, three (3) months and 37 days after the mailing of the Notification, a reply was filed. Accordingly, entry of a period of reduction of 37 days is warranted.

In view thereof, the determination of PTA at the time of the mailing of the Notice of Allowance is 0 days (0 days of PTO delay, reduced by 123 (86 + 37) days of Applicant delay).

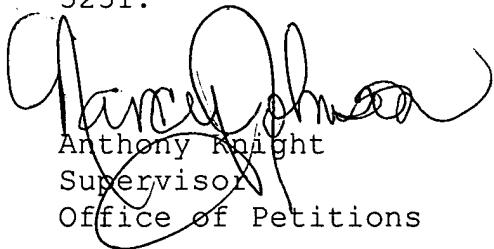
As the instant letter was submitted to advise the Office of an error in Applicant's favor, the \$200.00 application fee under 37 CFR 1.705(b) was not required, and has not been charged.

The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in

issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.



Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of revised PALM screen

Day : Wednesday

Date: 3/10/2010

Time: 13:44:54

PALM INTRANET**PTA Calculations for Application: 10/588138**

Application Filing Date:	02/12/2007	PTO Delay (PTO):	0
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	86
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-37		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
64	03/10/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		37	
58	08/12/2009	MAIL NOTICE OF ALLOWANCE			
57	08/12/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
56	08/12/2009	ISSUE REVISION COMPLETED			
55	08/12/2009	DOCUMENT VERIFICATION			
54	08/06/2009	NOTICE OF ALLOWABILITY			
53	07/09/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
52	07/09/2009	REFERENCE CAPTURE ON IDS			
51	07/09/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	07/15/2009	DATE FORWARDED TO EXAMINER			
49	07/09/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
48	07/15/2009	DATE FORWARDED TO EXAMINER			
47	07/09/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
46	07/15/2009	DISPOSAL FOR A RCE / CPA / R129			
45	07/09/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	07/09/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
43	06/16/2009	FINISHED INITIAL DATA CAPTURE			
42	05/19/2009	EXPORT TO INITIAL DATA CAPTURE			
41	05/14/2009	MAIL NOTICE OF ALLOWANCE			
40	05/12/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
39	05/12/2009	ISSUE REVISION COMPLETED			

38	05/12/2009	DOCUMENT VERIFICATION			
37	05/04/2009	NOTICE OF ALLOWABILITY			
33	04/01/2009	DATE FORWARDED TO EXAMINER			
32	03/19/2009	RESPONSE AFTER NON-FINAL ACTION	86	30	
31	03/19/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	09/23/2008	MAIL NON-FINAL REJECTION			
29	09/22/2008	NON-FINAL REJECTION			
28	08/25/2008	CORRESPONDENCE ADDRESS CHANGE			
27	08/25/2008	DATE FORWARDED TO EXAMINER			
26	06/11/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
25	06/11/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	03/17/2008	MAIL RESTRICTION REQUIREMENT			
23	03/03/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
14	02/14/2008	CASE DOCKETED TO EXAMINER IN GAU			
13	02/03/2008	CASE DOCKETED TO EXAMINER IN GAU			
12	11/20/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	02/12/2007	371 COMPLETION DATE			
9	09/21/2007	APPLICATION DISPATCHED FROM OIPE			
8	09/21/2007	NOTICE OF DO/EO ACCEPTANCE MAILED			
6	06/28/2007	PG-PUB ISSUE NOTIFICATION			
5	03/19/2007	CORRESPONDENCE ADDRESS CHANGE			
4	03/15/2007	CASE CLASSIFIED BY OIPE			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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